IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.35724 of 2008

1. FULHASSAN NADAF @ FULHASSAN, SON OF LATE ABDUL NADAF
2. KURESHA @ KURESHA TETARI, WIFE OF FUL HASSAN NADAF @ FUL HASSAN
3. MAIMUN, SON OF FULHASSAN NADAF @ FUL HASSAN
4. SAINUM, SON OF FULHASSAN NADAF @ FUL HASSAN
5. SAMSA, SON OF HASIM
6. MOSIM, SON OF SHEKH ALI,
ALL RESIDENT OF VILLAGE DUVIYAHI, P.S.-BISFI, DISTRICT- MADHUBANI

Versus
THE STATE OF BIHAR

For the Petitioners:- Mrs. Namrata Mishra, Advocate and
Mr. Ratnakar Jha, Advocate

For the State:- Mr. C. Jawahar, A.P.P.

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02 30.09.2008 Heard learned counsel for the petitioners and learned counsel for the State.

Petitioners are facing prosecution under Sections 147, 148, 149, 452, 380, 324/307 of the Indian Penal Code.

Learned counsel for the petitioners submits that petitioner No.1 has been arrested by the Police. Thus, this application has become infructuous against him.

This application against petitioner No.1 is dismissed as having become infructuous.

So far as petitioner No.6 is concerned, it is submitted that though there is allegation of assault against him, but the injury caused to the informant is simple which is apparent from Annexure-2.

Having regards to the aforesaid submissions made on behalf of the parties and in the facts and circumstances of the case, I am not inclined to grant bail to the petitioner No.6 namely, Mosim and his prayer for bail is rejected.

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If the petitioner no. 6 surrenders and seeks regular bail, the court below will consider the prayer of bail of the petitioner on its own merit in accordance with law without being prejudiced by the present order.

Learned counsel for the petitioners submits that it is apparent from the F.I.R. that there is dispute with regard to digging up "Nala". It is further stated that there is case and counter-case and there has been injuries also on the side of the present accused persons. F.I.R. in this regard was lodged by accused No.1 who was in hospital (Primary Health Center). It is stated that there is no specific allegations against the petitioner Nos. 2, 3, 4 and 5 of any overt act.

Learned counsel for the State submits that though there is case and counter case, but there is specific allegation of assault against petitioner No.6 of causing injury, in the present case.

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Thus , the petitioner Nos. 2, 3, 4, and 5 namely Kuresha @ Kuresha Tetari, Maimun, Sainum and Samsa, in the event of arrest of surrender in the court below within six weeks from the date of passing of this order, shall be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Madhubani, in connection with Bisfi P.S. Case No. 100 of 2008, corresponding to G.R. No. 1069 of 2008, subject to the conditions as laid down under Section 438 (2) of the Code of Criminal Procedure.

P.K. **(Dr. Ravi Ranjan,J.)**